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Before the Graduating Class of the Columbia College Law School, at the Academy of Music, New York, May 17th, 1882.

By CHAUNCEY M. DEPEW.

GENTLEMEN :

This is the most interesting period of your lives. Behind is the preparation, before preparation and application of the stores you have and those you will acquire. The hour of graduation is always full of precious memoirs and bright anticipations. The final review of the work done and its results, the last lingering words of admonition and advice, the separation from teachers and classmates, the sundering of ties never to be re-united, except in memory, the God speed, the good bye, and you are alone amidst the contending forces, necessities and ambitions of real life. Are you ready?

The world is a generous adversary. Sooner or later it yields its prizes of independence and honor to those who merit them. The profession welcomes you with open arms. It places neither jealousies nor obstacles in the way, but with its cordial greeting gives encouragement and assistance. Trades unions limit the number of their apprentices, and resist by every process the acquiring of their crafts. But the temple of the law has its doors always open for those who would study and practice its principles and teachings. You will never

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think you know so much as you do to-night, and your future will be dependent upon how far you appreciate the fact, that you have only found the road and how to travel it.

All about us are the wrecks of those for whom the clock struck twelve when they received their diplomas. The valedictorians of the college, the brilliant victors of the moot courts, who fail to fulfill the promise of their youth, have neglected to continue the study and lost the enthusiasm to which they owed their triumphs on mimic battle fields. Business men may have a lucky stroke of fortune, preachers may buy or borrow sermons, quacks may win riches by a patent medicine, but the lawyer can rely on no one but himself. He is like the Knight in the Ancient Tournament, when the Herald sounded the trumpet, and he rode down the lists, whether he splintered his enemy's lance, or was unhorsed himself, depended upon his own prowess and skill. Upon his advice men risk their character and fortunes. In the exigencies of the trial, he wins or loses by his own knowledge of his case, his ability to draw from a well stocked armory, the principles to meet unexpected issues, his readiness to seize and turn to instant advantage testimony which can help, or avert the force of that which can harm, by his trained ability to so discern and analyze amidst the mass of conflicting evidence the truth he seeks, and so present his cause to the court and jury that he brings them both to his own convictions. This can only be done by thorough preparation and laborious study continued all through life.

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The early years before a practice comes, are full of opportunity and danger. Some fall out from weariness and hopelessness. But there never yet was a man who deserved success, and doggedly and persistently pursued who did not win it. "You will hear me yet," said Disraeli, as he sank into his seat amid the jeers and laughter of the House of Commons. It took years devoted to study in every department before the threat was accomplished. But when recognition came, the man was so magnificently equipped that he stepped at once into and ever afterwards held, the leader's place. The despised Jew, rising to be the commander and oracle of the oldest and proudest of aristocracies, the prime minister of the most enlightened and powerful of empires, and a Peer of England, remains a bright beacon, lighting the way from exertion to triumph. But it is very difficult with no immediate motive or present incentive, to study and read while waiting for clients. It requires discipline and is discipline. It tests the question of fitness for the work of the profession.

The benefactions of the wealthy have built and stored great libraries, and the opportunities for learning are all about us. The vast resources of History enlarging the understanding by familiarity with the events and men of all times, the development of mankind and the progress of civilization, give a comprehensive and permanent grasp of the principles learned in the schools, by a knowledge of their origin, incidents and accidents; the broad and inviting fields of general literature, equip with accuracy of language, fertility of illustration, and

that indefinable force, which all recognize as power. In some branch of general reading, the mind finally strikes a subject, for which a special faculty exists, and enthusiasm and aptitude furnish the superiority which paves the way to vocation and success. As the law controls all the relations of life, regulates international disputes, and settles the rights and redresses the wrongs of all classes, conditions and pursuits; so from the limitless range of inquiry and knowledge no weapon comes amiss.

All great lawyers have been remarkable for the extent and versatility of their acquirements. The works of Bacon and Brougham, Talfourd's delightful life of Charles Lamb, Chief-Justice Marshall's Washington, and Wirt's Patrick Henry, the contributions of Kent and Story, are marvelous monuments of improved opportunities outside the law, strengthening and gracing its profession and practice. But how, except a man has extraordinary endowments, can all this be done? Your studies have made you familiar with the value of method, and yet odd hours are a life time. I said to Henry J. Raymond when he was writing the life of Lincoln, "how is it possible for you, editing a great daily newspaper, and immersed in public affairs, to find time for the research necessary to gather the materials and for the composition of this work?" He answered: "An hour conscientiously devoted every morning before breakfast will soon fill a library." When I graduated at Yale, that wonderful old man, the elder Professor Silliman, then in his eightieth year, said, "Young gentlemen, as the result of

my experience and observations, I have one piece of advice to give you; improve with reading the odd five minutes." It is astonishing how many of them there are.

I trust you will all get married, not, however, until you are able to support a wife, for that has spoiled many a promising career; but the sooner after the better. You will discover then that the peculiarity of the female mind is a contempt for punctuality. Instead of storming, or ruining your peace and her temper, because of the long waits before dinner, or church, or the theatre, or the party, follow Professor Silliman's advice, and not the least of the obligations you will owe your wife, will be the opportunity to explore the whole field of literature. President Garfield made it a rule, from which he never deviated, to read ten lines of the classics, and three pages in some book of solid worth every day, and he was the best informed and most accomplished public man of this generation.

Some men fail because they have mistaken their calling. The patient research, unflagging zeal, and faculty to sift and discriminate, is not granted to every one, even if greatly gifted in other ways. For the best interests of the man and the world, the moment the discovery is made, the profession should be abandoned. Putting square pegs in round holes, ruins both the peg and the hole. Many are struggling with poverty and despair in the law, who would benefit society and enrich themselves in the management of affairs. Two graduates of a law school have been to me within a few

years and each said: "I have thoroughly tested the question and find I have mistaken my vocation. My talent is for business alone," One was willing to begin as a brakeman and work up to be President, and the other preferred starting in the more attractive uniform of a conductor. But I honored their modesty and courage. Burke, and Fielding, and Cowper, and Gray failed at the law, and earned undying fame in Statesmanship and literature, while American journalism and letters owe their best contributions and purest fame to the early discovery and rectification of this mistake by Bryant, Longfellow, and Irving. The Country is full of successful merchants, manufacturers, and railroad managers who have deserted the law, for which they were not fitted, and followed the bent of their genius, but who are nevertheless superior to their fellows in the same pursuits, because of their training in and familiarity with the grand fundamental principles of Jurisprudence.

Integrity, not alone of character, but to opinions and duty, is the first element of a good lawyer. The property of a client which comes into his possession can neither be borrowed nor loaned. It is a sacred trust, to be instantly and scrupulously accounted for. Because of laxity to this principle, without dishonesty in intent or result, I have seen many a brilliant and promising career stopped; and many a conscientious plodder, by his fidelity and quick payments, win both honor and income, and become the custodian of large interests and estates. But in a broader sense must his integrity be

conspicuous. It is safe to say he can never be bribed to betray his client, and that he will not misappropriate the funds in his hands. For though holding larger trusts than all other vocations combined, and without security, the record of the profession in its fiduciary relations is of unexampled purity. But he must not be intimidated. A new tribunal judges and pre-judges causes, before which he cannot plead, and that is trial by newspaper. The press controls the Government, and makes and unmakes public men, and in the natural tendency to magnify power, it influences the administration of justice. Having decided in advance the merits of a controversy, or the guilt of the accused, it assails with vigor the unpopular side. With the clouds thus thrown about the case and which threatens to involve them, some lawyers decline, or if retained, perform their duty with apology and timidity. But deterred neither by misrepresentation or unpopularity, the advocate, true to his oath and office, in proportion as such difficulties surround him, will rise with mightier effort, to vindicate by his courage and learning, in behalf of his client, both his honor and his profession.

It is not alone by the brilliant triumphs of the advocate, but as advisor and friend, that the lawyer finds his sphere of largest usefulness. He discourages suits, and encourages settlements. He cools the passions, and promotes the interests of his clients. He inculcates justice by making it profitable. He mediates between warring neighbors and secures the confidence and friendships of both. He discourages litigation, and,

while promoting good fellowship, in the end increases his own retainers. He becomes an educator and benefactor in that broad sense which points out the right and enforces it. While dissenting utterly from Brougham's maxim, to stand by his client right or wrong, and even if it involves the ruin of his country, he finds the law so unsettled by conflicting decisions, the facts so subject to the lights and shadows of ignorance, memory and prejudice, that he rarely will have a case or client, to which or whom it will not be his duty, with devotion and enthusiasm, to give his best efforts, leaving to the skill of his adversary, the learning and guidance of the Judge, and the verdict of the Jury, the vindication of the right.

The vast enterprises of our times, the enormous profits of business and speculation, the rapid accumulation of gigantic fortunes, the intensity of industrial activities, the limitless expansion of production and commerce, the palaces of the wealthy rising on every side, and the adulation to and power of money, are the hope and despair of the profession. These elements enlarge the limits of practice and narrow the possibility of competition, in the acquisition and fruits of riches. New issues to be settled, new relations to be adjusted, corporations and individuals to be advised, and large interests to be protected, increase the demand for trained, skilled and able counselors far beyond the supply, while the distractions of society and luxury, and the temptations of other pursuits enervate and deplete the ranks as fast as they are recruited. The sooner the young lawyer emancipates himself from this absorbing mania for fortune,

the better for his usefulness and fame. The wonderful creations and profits of inventions, the ventures of the street and the exchange, the concentration of forces by which one man reaps the harvest sown by thousands, with machinery, are not his opportunity. In an age when steam and electricity reduplicate the powers and profits of business, his rewards are only those from his own exertions. While exacting full and fair returns for his skill and acquirements, his success is in knowledge and its power, in the superiority of intellectual over material forces, in his unquestioned influence in society and the state, and, with prudence and frugality, in an income which guarantees his independence, a competence for his old age, and an estate for his family.

Nations have preserved their liberties, and patriots have won glorious victories by the examples and inspiration of the past. Heroic sacrifices, grand achievements, memorable battle fields, the triumphs of Statesmen in the Cabinet, of orators in the Senate, of advocates in the forum, are the incentives to high endeavor and solid progress. We are "the heirs of all the ages in the foremost files of time," and the accumulations of all the past are our inheritance. But no other profession or pursuit has behind it exemplars and a history like the law. Its teachers have been the the foes of anarchy, misrule, and tyranny, and its principles form the foundation of governments and the palladium of rights. Call the roll, and you summon God's chosen ministers of civilization and reform. It was not Pericles but Solon and his Statutes who made possible Grecian power and pro-

gress; it was not her legions, but her twelve tables, which made Rome the mistress of the World; it was not the defeat of the Moslem hordes, but the discovery of the pandects which preserved Europe; it was not the Norman Conqueror, but the common law which evolved out of chaos, revolution and despotism, constitutional freedom. Bacon, Coke, Blackstone, Mansfield, Brougham, Erskine, Curran, Marshall, Hamilton, Jay, Livingstone, Kent, Story, Webster, and hundreds of others, who by the law, and through the law, have done more for peoples' and States than all the warriors of the world, are here to welcome you to their fellowship.

In the sack of the Italian City of Amalfi, a copy of the pandects was discovered, the study of the civil law sprang up all over Europe, and its administration passed from the hands of the Ecclesiastics, to its trained professors. In revenge, the Council of the Church held at Amalfi decreed that no lawyer could enter the Kingdom of Heaven. But the lawyers have requited this anathema, by largely converting the Nations from the Hell of Arms to the Heaven of Arbitration. Few of the Barons at Runnymede could read and their sword hilts were their marks, but the lawyers improved upon their demands, by grafting upon the Great Charter those Saxon liberties for the individual, embodied in that noble sentiment of the last will of King Alfred, that "it was just, the English should forever remain as free as their own thoughts." It was the Courts and not the Commons which convinced the great and arbitrary Queen Elizabeth, that there were limits to the Royal prerogative, and warned Charles the First, that

taxation without representation might cost him his head. When submission and servility were threatening the integrity of English Institutions it was Chief Justice Coke who steadied wavering patriotism with the grand sentiment "that power which is above law, is not fit for the King to ask or the people to yield." King James the First, pedantic, pig headed and a tyrant, said "I will dispense Justice in person and reverse decrees at will." The Judges firmly replied "that, by the Constitution, can only be done by men learned in the law." "Then I will show what common sense and common honesty can do" said the King "by sitting with you." But on the third day he abandoned the judgment seat cured, saying, "when one side speaks, the case is clear, but when the other closes, upon my soul I cannot tell which is right." English statesmen had guaranteed the protection of slavery in the West Indies, and the property and prosperity of thousands were dependent upon the pledge. The policy of the government, the interests of trade were all enlisted in its support. But when Lord Mansfield said "I know the promises of the cabinet and the immense sums of money involved. Since, however, the question is before me, *fiat justia ruat cœlum*, a slave cannot breathe the air of England" then was human slavery doomed all over the world. (It was as a law student that Cromwell learned those principles, which caused him to pledge fortune and life to the motto, "that resistance to tyrants is obedience to God;") and when the gay cavalier went down before the resistless charge of his Ironsides, the freedom and development of the English speaking world was as-

sured. He established peace and liberty at home, and enlarged the power and possessions of his country abroad, and though Charles the Second, by violating the law, might squander this glorious inheritance, and disinter the remains of the great Protector, and hang them at Tyburn, his spirit crossed the seas in the Mayflower and founded this Republic.

There were one hundred and sixty crimes for which men and women were put to death in the time of Blackstone, and Sir Matthew Hale hung for theft and burned for witchcraft. But surpassing all the theories and labors of other philanthropists, the humanity and learning of Romilly, McIntosh and Brougham, formulated into practical legislation those beneficent opinions, by which only for treason and murder shall a man forfeit his life.

The American revolution was not a sentiment but a principle. It was not only an outburst of patriotism but a struggle for the maintenance of law. We remember now only the heroes of the battle-fields, but it was a lawyers' war. The long and terrible contest against civilized and savage foes in the effort to break the French power on this Continent, which ended in the tragic and immortal fate of Wolfe and Montcalm at Quebec, injured and trained the people to arms, but the lawyers taught them their rights. It was the liberties guaranteed Englishmen by the Magna Charta, the Habeas Corpus, the Bill of Rights and the common law for which they fought. Glorious as are the lives and precious the memories of Washington, Greene, Putnam and Wayne, they only maintained in the field the ideas

which the Bar and the Bench, whose members (are almost forgotten) embodied in addresses to the king and parliament, and in the Declaration of Independence, and after the soldier had sheathed his sword, in the National and State constitutions. These documents are instinct with the doctrines for which for hundreds of years their fathers had died in battle, resisted the crown from the Bench, and shed their blood upon the block.

On the 9th of September, 1777, the first term of the Supreme Court of our State was held at Kingston. That Constitution which has served as a model for the United States and most of the States, had just been adopted. The seven Nationalities, represented on the Committee of thirteen which framed it, illustrated and foreshadowed the cosmopolitan and tolerant character of the people of New York. Burgoyne, with his army of veterans, victors of many European battlefields, was marching with apparently resistless force from Canada, and Sir Henry Clinton was gathering soldiers and sloops of war to meet him at Albany. Patriot and Tory alike saw in the success of the movement, the ruin of the American Cause. It was the darkest hour of the struggle, and within a few weeks the village and court house were burned by the enemy. Almost within the sound of the guns and war whoops of the advancing foe, with calm confidence and dignified assurance, that great jurist, Chief Justice Jay, charged the Grand Jury in the following words: "The infatuated sovereign of Great Britain, has, by destroying our former Constitutions, enabled us to erect more eligible systems of government

on their ruins, and by unwarrantable attempts to bind us in all cases whatever, has reduced us to the happy necessity of being free from his control in any. But let it be remembered that whatever mark of wisdom, experience and patriotism there may be in your Constitution, it is yet like the beautiful symmetry of our first parents, to be animated by the breath of life; from the people it must receive its spirit, and by them, be quickened. Let virtue, honor, the love of liberty and science, be and remain in the soul of this Constitution, and it will become the source of great and extensive happiness to this and future generations."

Ours is and always has been a government controlled by lawyers. In this De Tocqueville recognized its greatest claim to stability and expansion. The profession has contributed seventeen of the twenty-one Presidents of the United States, and voiced cabinets and councils. It may be that their rule has been characterized by compromises and makeshifts, but it has successfully adapted an untried system to new and unexpected emergencies. Its radicalism has always tended to the preservation of liberty, the maintenance of order and the protection of property. Lawyers can be agitators without becoming communists, and reformers without being demagogues. They have codified the laws, brushed away the subtleties of practice, abolished those fictions of law and equity which defeated justice, and secured to women the administration and disposition of their property; and yet liberties are always so enlarged as to preserve essential rights.

Alexander Hamilton so settled the law of libel and the liberty of the press, that his brief became part of the constitution of States and the law of England, and yet he devised the financial system which carried through the revolutionary war. Salmon P. Chase died Chief-Justice of the United States, and yet it was his scheme of credit which sustained the Nation in its great contest. The Geneva Arbitrators and the Electoral Commission, with the lawyers' tribunal and weapons, peacefully settled questions of International controversy and governmental succession, which in all former times were decided by the wager of battle or bloody civil strife.

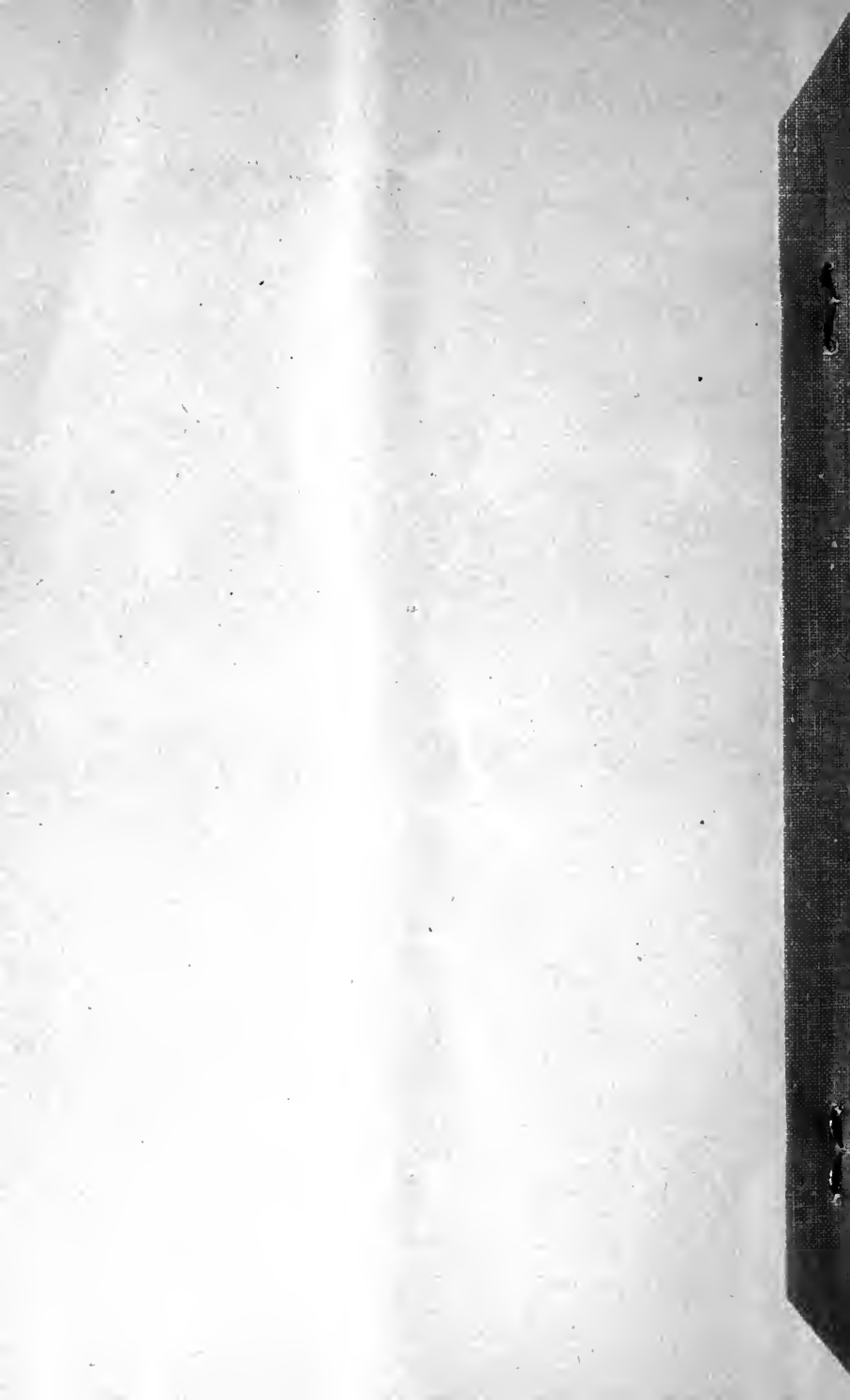
The paramount question of the present hour is how the conditions of to-day can be adjusted to the accepted doctrines of the past. Steam and electricity and the unification of business and social relations, have obliterated State lines. Centralization has been the fear of former generations, and Cæsarism the temporary madness of the present. But the imaginary evils of the one and illusory perils of the other, face, with a commercial people, the imperative necessities of law and business. That men and women should be married in one State and divorced in another, their children legitimate in one jurisdiction and illegitimate in another, is an offence against morals, and a disgrace to our jurisprudence. That railway, express, telegraph and insurance companies are subject to varied, contradictory, antagonistic and imperfect regulation and taxation in each Commonwealth where they operate, is the opportunity of the agitator, the despair of the manager, and the danger of

the investor. The school of Jefferson did not foresee the effect upon our institutions of invention and discovery. It is for the lawyer-statesmen, whether in or out of office, to first eradicate time-honored prejudices, and then, by adjustment upon a broad, comprehensive and national basis, to prove the elasticity and capabilities of constitutional freedom in a federative Republic.

Despotisms and Democracies converge in the effort to control personal conditions and business principles by laws and regulations. With the one it leads to tyranny, with the other to the curse of over-legislation, and its constant modification and repeal, unsettling trade and values. If the Legislature met but once in four years, not a single interest would suffer, and security and stability would promote prosperity. With an Ancient people, every man who proposed a new law, did so with a rope around his neck, signifying his willingness to be hung if it worked badly. If that rule prevailed with us, the multitude of public executions would enforce, as no other experience could, that most beneficent maxim: "That Government is best, which governs least."

The duty of a lawyer to his profession and the State compels him to be a politician, but until success is assured he cannot be an office holder. His training fits him to educate public sentiment and resist popular delusions, but he cannot enter public life without losing his practice. Many a young man has gone to the Legislature expecting to find by the acquaintance and reputation it gives, a speedy road to clients and income, and discovered that he has permanently lost both. It is said

that there are three thousand college graduates in this city who cannot earn a living. It is because theory has overweighted practice, and educated sense has eradicated common sense. Remember that every man knows more than you think he does, and the great mass mean to do right, and respect justice according to their lights. You have studied the architecture of the Temple of the Law, with its base covered with Egyptian hieroglyphs and Hebrew texts, its Roman columns and Grecian capitals, its massive handiwork of Norman and Saxon. But it has often been leveled to the ground. Though full covenant deeds have been found in mummy cases; though Solon enacted statutes upon wills, debtors, creditors and bankruptcy, parent and child, and pensions to soldiers; though the Rhodians had a maritime code centuries before Christ, and Athens, consuls and courts of Admiralty; though Cicero borrowed money upon mortgage, and Rome recognized the principle of compensation for private property taken for public use; force and corruption swept away every vestige of law and shred of right, and the world retrograded to barbarism and despotism. For dark ages following this brilliant civilization, upon the grave of every principle of justice and equity, might was the only right. The teachings of the Nazarene have brought Nations and races into harmonious relations, established the worth and independence of the individual, and given perpetuity to law and justice. You are the custodians, exponents and defenders of the law thus regenerated and disenthralled, and your future is dependent upon your own industry, integrity and manhood.



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